

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF WISCONSIN**

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WILLIE L. COLISTER,

Plaintiff,

v.

Case No. 10-C-481

MICHAEL J. ASTRUE  
Commissioner of the  
Social Security Administration,

Defendant.

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**ORDER GRANTING PLAINTIFF'S PETITION FOR  
LEAVE TO PROCEED IN FORMA PAUPERIS**

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The plaintiff, Willie L. Colister, seeks judicial review, pursuant to 42 U.S.C. § 405(g), of the Commissioner of the Social Security Administration's (Commissioner) decision denying his application for Social Security disability benefits and Supplemental Income Security benefits. The plaintiff has filed a petition for leave to proceed in forma pauperis. (Docket # 2). The court will grant the petition.

In order to authorize a litigant to proceed in forma pauperis, the court must make two determinations: 1) whether the litigant is unable to pay the costs of commencing the action; and 2) whether the action is frivolous or malicious. 28 U.S.C. § 1915(a) & (e) (2). The court is obligated to give the plaintiff's pro se allegations, however in artfully pleaded, a liberal construction. See Haines v. Keener, 404 U.S. 519, 520-21 (1972).

The plaintiff's affidavit of indigence indicates that he has limited monthly income. Accordingly, the court conclude that the plaintiff has satisfied the requirements of Section 1915(a) and is unable to pay the costs of commencing this action.

The plaintiff must next demonstrate that his action for judicial review has merit, as required by 28 U.S.C. § 1915(e)(2). The complaint alleges that the Commissioner's decision denying his application for disability benefits is not supported by substantial evidence and is contrary to law and regulation. Accordingly, his complaint sets forth an arguable basis for relief in both law or fact and, therefore, is not frivolous for the purposes of Section 1915(e)(2). See Nusku v. Williams, 490 U.S. 319, 325 (1989); Denton v. Hernandez, 504 U.S. 25, 31 (1992). Accordingly, the defendant will be called upon to respond to the allegations contained in the plaintiff's complaint.

The Clerk of Court will serve the copy of the complaint, the summons and this order upon the defendant.

**ORDER**

**NOW, THEREFORE, IT IS ORDERED** that, pursuant to 28 U.S.C. § 1915(a), the plaintiff's petition for leave to proceed in forma pauperis be and hereby is granted. (Docket #2).

**IT IS FURTHER ORDERED** that the Clerk of Court be and hereby is directed to serve a copy of the complaint, summons and this order upon the defendant pursuant to Fed. R. Civ. P. 4. Dated at Milwaukee, Wisconsin this 17th day of June, 2010.

BY THE COURT:

s/ Patricia J. Gorence  
PATRICIA J. GORENCE  
United States Magistrate Judge

